

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES EDWARD SCOTT, III,
Plaintiff,
v.
SMALLWOOD, et al.,
Defendants.

Case No.: 3:23-cv-00265-MMD-CSD

ORDER

On June 12, 2023, pro se plaintiff James Edward Scott, III, an inmate in the custody of the Nevada Department of Corrections, submitted a complaint under 42 U.S.C. § 1983 and applied to proceed *in forma pauperis*. (ECF Nos. 1, 1-1). Plaintiff's application to proceed *in forma pauperis* is incomplete because Plaintiff did not include a completed financial certificate and an inmate trust fund account statement for the previous six-month period with the application. The Court will deny Plaintiff's application without prejudice and give Plaintiff the opportunity to correct these deficiencies **by August 18, 2023**.

I. DISCUSSION

The United States District Court for the District of Nevada must collect filing fees from parties initiating civil actions. 28 U.S.C. § 1914(a). The fee for filing a civil-rights action is \$402, which includes the \$350 filing fee and the \$52 administrative fee. See 28 U.S.C. § 1914(b). "Any person who is unable to prepay the fees in a civil case may apply to the court for leave to proceed *in forma pauperis*." Nev. Loc. R. Prac. LSR 1-1. For an inmate to apply for *in forma pauperis* status, the inmate must submit **all three** of the following documents to the Court: (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, which is pages 1–3 of the Court's approved form, that is properly signed by the inmate twice on page 3; (2) a completed **Financial Certificate**, which is page 4 of the Court's approved form, that is properly signed by both the inmate and a prison or jail official; and (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**. See 28 U.S.C. § 1915(a)(1)–(2); Nev.

1 Loc. R. Prac. LSR 1-2. *In forma pauperis* status does not relieve an inmate of his or her
2 obligation to pay the filing fee, it just means that the inmate can pay the fee in installments.
3 See 28 U.S.C. § 1915(b).

4 As explained above, Plaintiff's application to proceed *in forma pauperis* is
5 incomplete. The Court will therefore deny Plaintiff's application to proceed *in forma*
6 *pauperis* without prejudice and grant Plaintiff an extension of time to either pay the filing
7 fee or file a new fully complete application to proceed *in forma pauperis* with all three
8 required documents.

9 **II. CONCLUSION**

10 It is therefore ordered that the application to proceed *in forma pauperis* (ECF No. 1)
11 is denied without prejudice.

12 It is further ordered that Plaintiff has **until August 18, 2023**, to either pay the full
13 \$402 filing fee or file a new fully complete application to proceed *in forma pauperis* with
14 all three required documents: (1) a completed application with the inmate's two signatures
15 on page 3, (2) a completed financial certificate that is signed both by the inmate and the
16 prison or jail official, and (3) a copy of the inmate's trust fund account statement for the
17 previous six-month period.

18 Plaintiff is cautioned that this action will be subject to dismissal without prejudice if
19 Plaintiff fails to timely comply with this order. A dismissal without prejudice allows Plaintiff
20 to refile the case with the Court, under a new case number, when Plaintiff can file a
21 complete application to proceed *in forma pauperis* or pay the required filing fee.

22 The Clerk of the Court is directed to send Plaintiff the approved form application to
23 proceed *in forma pauperis* for an inmate and instructions for the same and retain the
24 complaint (ECF No. 1-1) but not file it at this time.

25 DATED THIS 21st day of June 2023.

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28 UNITED STATES MAGISTRATE JUDGE